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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,116	03/11/2004	Chie-Fang Lo	GFP-2488	4674
7590	04/11/2006			
Mr. Phillip LIU 6980, Whiteoak Dr. Richmond, BC V7E 4Z9 CANADA			EXAMINER MOHANDESI, JILA M	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,116

Applicant(s)

LO, CHIE-FANG

Examiner

Jila M. Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Jung (5,068,981). Jung '981 discloses a cushion cell located between an outsole and an insole of shoes, comprising: a casing (cylindrical heel chamber body 14) composed of a first portion and a second portion, and an hour-glass-shaped compressible member (spring 13 which preferably has smaller size of the middle portion than both end portion thereof for maintaining its stability) located in the casing and composed of an upper portion and a lower portion, each of the upper portion and the lower portion being a continuously spiral wire extended in a vertical direction and including a narrow end and a wide end, the spiral wire of the upper portion being inserted in a corresponding spiral gap of the lower portion when the compressible member is compressed into a flat disk-like form. See Figures 1-4(B) embodiments and column 2, lines 66-68.

With respect to claim 2, note retaining members/grooves 12.

With respect to claim 3, note cushion pad/insole 19.

With respect to claim 4, note the ventilation valve (7), air outlet members (10) and air inlet members (17) in Figure 1 embodiment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lombardino (6,055,747) in view of Jung '981. Lombardino '747 discloses a cushion cell located between an outsole and an insole of shoes, comprising: a casing (encasement 20) composed of a first portion (lower portion 22) and a second portion (upper portion 26), and compressible member (compression springs 50) located in the casing and composed of an upper portion and a lower portion, each of the upper portion and the lower portion being a continuously spiral wire extended in a vertical direction, the spiral wire of the upper portion being inserted in a corresponding spiral gap of the lower portion when the compressible member is compressed into a flat disk-like form. See Figures 1-6 embodiments. Lombardino '747 does not appear to disclose the shape of the compression spring to be hour-glass. Jung '981 discloses that it is desirable to make

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the shape of the compression spring as an hour-glass shape for better stability.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to the compression spring of Lombardino '747 hour-glass shaped as taught by Jung '981 for better stability.

With respect to claim 2, note retaining members lower guide member 30 and upper guide member 40).

With respect to claim 3, note cushion pad (midsole 14) in Figure 4 embodiment.

Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are cushion cells analogous to applicant's instant application.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
April 10, 2006